

State of New Jersey

Department of the Treasury

For Immediate Release:
October 20, 2006

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Treasury to Re-Bid Lottery Contract

TRENTON – Stating that the public's interest would be best served by starting the State Lottery procurement process anew, State Treasurer Bradley Abelow announced today that he has instructed the Division of Purchase and Property director to re-bid the Lottery Gaming Systems and Support Services contract.

In November, 2005, following a lengthy open and competitive procurement process, Purchase and Property selected GTECH Corporation for the five year contract. The formal award was subsequently challenged by the only other bidder for the contract, Scientific Games International (SGI). In the interest of breaking a protracted deadlock in the final award process, and to facilitate an independent and transparent review of the procurement process, Treasurer Abelow, in August of this year, named former Supreme Court Justice Daniel J. O'Hern as a special hearing officer for the lottery contract.

In a letter to O'Hern (attached) Treasurer Abelow wrote "Based on what we have learned through the hearing, we will be implementing a variety of measures for the new Lottery procurement and all other procurements to ensure that our process is as transparent and fair as possible to all stakeholders and free from outside influence and any apparent or real conflict of interest."

In a letter of response to Treasurer Abelow, Justice O'Hern fully concurred with the treasurer's decision to re-bid the contract and terminate the hearing (letter attached).

Treasurer Abelow said that the State was compelled to act based on undisputed facts revealed at the hearing, particularly the testimony from former Attorney General John J. Farmer. The former attorney general was among those who called for a re-bid due to an appearance of a conflict that arose from a contractor's dual representation of the State and GTECH during the pendency of the procurement process, although in different capacities.

In his letter, the Treasurer explained: "We have become aware that representatives of the MWW Group, whose firm was providing public relations services for the Lottery, may have discussed with GTECH representatives strategies to place GTECH in a better position to be awarded the Lottery contract." In his testimony, former Attorney General Farmer said that a full and complete investigation would be required to determine if that occurred. MWW's three-year public relations contract with the Lottery ended in April 2006.

"When one combines the work that MWW performed for the Lottery during the period that the State was evaluating bids, with the work that MWW was performing for GTECH during this same period, the public may be left with a perception that MWW could have used its role as a State contractor to attempt to influence the outcome of the procurement process. In the context of the award of a multi-year, multi-million dollar contract to operate a two-billion dollar a year operation, the integrity of the Lottery cannot be placed into question."

Treasurer Abelow noted in the letter that "although there has not been any testimony or other evidence to suggest that MWW had any actual effect on the evaluation process, it is our determination that the potential conflict presented by the exchange between MWW and GTECH created a sufficiently troubling impression as to warrant a re-bid of this procurement."

Treasurer Abelow wrote that it is important for the State to move quickly to re-bid the contract.

"Any further delay in reaching this conclusion negatively affects the citizens of this State because the bids from either GTECH or SGI would lead to significantly lower costs to the State and improved technology when compared to the current system. When one considers that the most salient facts will not change and the strong likelihood that a new contract will not only lead to dramatic technological improvements over the existing system, but also lower operating costs, we believe that the most prudent, ethical and fiscally responsible approach is to move to re-bid the contract immediately," he wrote.

The treasurer expressed appreciation to the justice for his efforts and noted the benefits resulting from this process.

Treasurer Abelow said that in preparing the bidding documents for the new contract, as well as all future procurements, the Division of Purchase and Property will include a provision that requires bidders to disclose any possible conflicts of interest to enable the State to be aware of such issues before it evaluates proposals so it can take appropriate action. The RFPs will also include language that bars bidders, their representatives, agents and lobbyists from initiating any inappropriate contact with any Executive Branch officials.

GTECH is currently under a contract extension for providing lottery services. The Division of Purchase and Property's re-bidding process will begin immediately.



State of New Jersey

OFFICE OF THE GOVERNOR

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JON S. CORZINE
Governor

October 20, 2006

Honorable Daniel J. O'Hern
Becker Meisel LLC
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Red Bank, New Jersey 07701

Re: In the Matter of the Protest of Scientific Games
International, Inc. To the Notice of Intent to Award the
Contract for Lottery Gaming Systems and Support Services to
GTECH Corporation, RFP No. 06-X-37983 to GTECH Corporation.

Dear Justice O'Hern:

I write to thank you for your invaluable service to the State in your role as Hearing Officer for the protest filed by Scientific Games International, Inc. ("SGI"), to the intended award of the Lottery Gaming Systems and Support Services contract to GTECH Corporation ("GTECH"). As we explained when we asked you to accept this role, the State was seeking an independent assessment of its procurement process for this contract to determine whether the proposed award to GTECH should be upheld. You have performed that task with distinction. As explained more fully below, based on information revealed during the hearing, particularly testimony from former Attorney General John J. Farmer, Jr., Esq., the State has decided that it is in the best interest of the public to rebid this contract and start the procurement process anew. Although this decision ends the hearing process, the fruits of your labor will be readily apparent in this and future procurements. Based on what we have learned through the hearing, we will be implementing a variety of measures for the new Lottery procurement and all other procurements to ensure that our process is as transparent and fair as possible to all stakeholders and free from outside influence and any apparent or real conflict of interest.

In broad terms, the State is compelled to rebid this contract because of the appearance of conflict that arises out of a contractor's dual representation of the State and GTECH during the

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pendency of the procurement process, albeit in different capacities.

We have become aware that representatives of the MWW Group, whose firm was providing public relations services for the Lottery under a separate, competitively bid contract, may have discussed with GTECH representatives strategies to place GTECH in a better position to be awarded the Lottery gaming systems contract. In his testimony, former Attorney General Farmer said that a full and complete investigation would be required to determine if that occurred.

When one combines the public relations work that MWW performed for the Lottery during the period that the State was evaluating bids, with the work that the same agency was performing for GTECH during this same period, the public is left with a perception that the agency could have used its role as a State contractor to attempt to influence the outcome of the procurement process. In the context of the award of a multi-year, multi-million dollar contract to operate a two-billion dollar a year operation, the integrity of the Lottery cannot be placed into question. Thus, although there has not been any testimony or other evidence to suggest that MWW had any actual effect on the evaluation process, it is our determination that the potential conflict presented by the exchange between MWW and GTECH created a sufficiently troubling impression as to warrant a rebid of this procurement.

We are taking this action now because the facts presented, as framed by the testimony of former Attorney General Farmer, are undisputed, namely that MWW was an agent of the Lottery and an agent of GTECH although it has not been made clear whether MWW's work for GTECH was directly related to this procurement.

Any further delay in reaching this conclusion negatively affects the citizens of this State because the bids from either GTECH or SGI would lead to significantly lower costs to the State and improved technology when compared to the current system. When one considers that the most salient facts will not change and the strong likelihood that a new contract will not only lead to dramatic technological improvements over the existing system, but also lower operating costs, we believe that the most prudent, ethical and fiscally responsible approach is to move to rebid the contract immediately.

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I would like to reiterate my personal gratitude for your fine work. We appreciate your continued efforts to assist the State in acting responsibly and transparently in this important procurement process. Because of your stewardship of these hearings and the issues that you have identified and upon which you have focused attention, we have learned a great deal. Specifically, for all future procurements, we will include a provision that requires bidders to disclose any possible conflict of interest, to enable the State to be aware of such issues before it evaluates proposals so it can take appropriate action. In addition, we will include language in our bidding solicitations that bars bidders, their representatives, agents, and lobbyists from initiating any inappropriate contact with any Executive branch officials. Finally, we have already begun to change our procedures with regard to access to bid proposals submitted in connection with negotiated procurements. These measures are indicative of the positive impact you have had on our procurement practices through your role as Hearing Officer.

In taking into account all of the factors discussed above, I have determined that the hearing process should now be concluded. We will take the appropriate steps to notify the parties of this unless you would like to take such action. In closing, I give my personal thanks to you for your service to the State and your contributions to an ethical and transparent bid process.

Very Truly Yours,

A handwritten signature in black ink, appearing to read "Bradley I. Abelow", written in a cursive style.

Bradley I. Abelow
State Treasurer

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Re: In the Matter of the Protest of Scientific Games International, Inc. to the Notice of Intent to Award the Contract for Lottery Gaming Systems and Support Services to GTECH Corporation, RFP No. 06-X-37983 to GTECH Corporation

Dear Treasurer Abelow:

Thank you for advising me of your intentions concerning the above matter in which I am acting as Hearing Officer for the Division of Purchase and Property ("the Division").

I fully concur in your judgment to exercise your statutory authority to rebid this important public contract and to terminate these proceedings. We were about to commence multiple days of continued hearing that would have shed clearer light on the issues. But further hearings would not have fully dispelled the concern expressed in your letter to me that the State should rebid this contract because of the appearance of a conflict that arises out of a contractor's dual representation of the State and GTECH during the procurement process.

Ultimately, under the principles of the *Keyes Martin* case, the Director of the Division would have had to weigh that factor in the balance in determining which of the two bidders should receive the contract. Either might then have pursued an appeal to higher courts that would further have delayed resolution of this important matter.

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Treasurer Abelow

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**BECKER MEISEL
ATTORNEYS AT LAW**

I wish to assure you that in the record before me I found no evidence of actual wrongdoing in the conduct of any of the involved parties or Lottery officials. I believe that all acted with good intentions. At most there may have been an error in judgment in believing that the roles of the contractor could be compartmentalized between procurement of the new Lottery services contract and development of new gaming and marketing strategies for the Lottery.

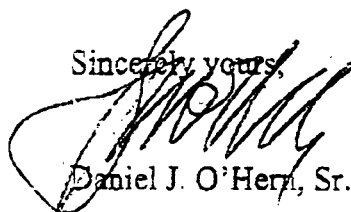
In the hearing before me the parties were represented by extraordinarily competent counsel. They were each candid and cooperative with me. Counsel for GTech was frank to acknowledge in our earliest case-management discussions the existence of the dual capacity problem, but conscientiously asserted that the contractor had never sought to lobby or otherwise influence Lottery officials with respect to the procurement of the subject contract. The State is fortunate to have two responsible bidders of national prominence competing for this bid. Without such competition, the provision of lottery services could become a closed shop.

I was pleased to have been able to serve in the capacity of Hearing Officer for the Division. I received invaluable assistance from the Attorney General's office in the conduct of the hearings. Assistant Attorney General Josh Lichtblau had to balance the competing interests of a sweeping investigation without setting precedent that would unduly burden the efficient administration of the procurement process. The parties reposed complete trust in Josh at all times to assess the probative value of certain of the materials sought for use in the hearing. The Attorney General's office gave wise counsel concerning the intended scope of the hearings. I hoped not to burden the Director of the Division or the Attorney General's office in managing the discovery requests, but the issues were significant and the public interest called for the extra care.

You have informed me of positive steps already taken to reinforce the need for transparency in the public bidding process, including Governor Corzine's new Executive Order No 37 concerning bidding practices. The Order provides in part that absent exceptional circumstances, contracts for the purchase of materials, products, supplies, and non-professional services shall be awarded to the lowest responsible bidder that submits a responsive bid.

I have some further general thoughts about the procurement process that I will shortly share with you.

Sincerely yours,



Daniel J. O'Hern, Sr.

DJOH:tv